



REPUBLIC OF KENYA
IN THE POLITICAL PARTIES DISPUTES TRIBUNAL AT NAIROBI
COMPLAINT NO. 159 OF 2017

DANIEL OKIDDY OJWANG.....APPLICANT

-VERSUS-

WILLIAM OWITI.....1ST RESPONDENT

ORANGE DEMOCRATIC MOVEMENT.....2ND RESPONDENT

RULING

Summary of the Application

1. This application proposes to review the decision of this Tribunal made in *Complaint No. 159 of 2017* delivered on 11th May 2017. The Applicant approached this Tribunal by way of Notice of Motion dated 13th May 2017. He sought for a review and a setting aside of the orders issued by this Tribunal in *Complaint No. 159 of 2017*. He averred that the decision of the 2nd Respondent's Special County Appeals Tribunal dated 6th May 2017 be upheld. He further sought for an order directing the Orange Democratic Movement (ODM) party to issue him the final nomination certificate for the Member of County Assembly for East Asembo Ward, Rarieda Constituency, Siaya County.
2. Through his Supporting Affidavit dated 13th May 2017, the Applicant averred that the orders issued in *Complaint No. 159 of 2017* were procured through concealment of material facts, particularly that the party's Special County Appeals Tribunal (hereinafter referred to as party's IDRMT) had duly confirmed him as the party

candidate for East Asembo Ward, Rarieda Constituency. Further, that the decision of the party's IDRMM had never been challenged, varied, reviewed, overruled, set aside or vacated. He submitted that the 2nd Respondent misled this Tribunal by failing to disclose this decision and deliberately concealed its existence, for his own gain.

Response

3. In response to this application, the 1st Respondent averred in his Replying Affidavit dated 15th May 2017, that he was unaware of any IDRMM proceedings. He further stated that he is not the person referred to as 'William Angul', the Respondent in the said IDRMM process. He contended that according to the final tally of the nomination exercise held on 25th April 2017 which was submitted before this Tribunal by the Returning Officer, he was declared the winner of the nomination exercise. He disputed the existence of a party organ known as the Special County Appeals Tribunal that sat and determined appeals anywhere within Siaya County or within the Republic. He further challenged the validity of the proceedings and the authenticity of the IDRMM decision adduced before this Tribunal.

Analysis and Determination

4. The review application before us seeks to bring into consideration the decision of an IDRMM process that was concluded on 6th May 2017 that found the Applicant herein as the winner of the nomination exercise for the position of Member of County Assembly, East Asembo Ward, Rarieda Constituency.
5. This process is however disputed by the 2nd Respondent, William Owiti, who averred in his Replying Affidavit dated 15th May 2017 that he is a stranger to the proceedings as per the record.
6. This Tribunal did in reaching the decision sought to be reviewed, take into account the political party institutions and processes that determined the win. The Returning

Officer who is the official mandated to declare the winner in a successfully conducted process did confirm the 2nd Respondent as the winner.

7. The Applicant has been unable to show us that the person he alleges to have had an IDR process with is actually the 1st Respondent or that the 1st Respondent participated in the nomination using any other names other than those he answers to. In the circumstances, we are inclined to question the connection between the alleged IDR process and the 1st Respondent's case.
8. Based on the foregoing, this Tribunal finds that the new information that the Claimant seeks to bring does not constitute sufficient cause for a review of this decision.

Orders

The Application dated 13th May 2017 is hereby dismissed with costs.

DATED and DELIVERED AT NAIROBI this 13TH DAY of MAY 2017

1. M. O. Lwanga (Presiding Member)

2. Desma Nungo (Member)

3. Paul Ngotho (Member).....

4. Dr. Adelaide Mbithi (Member)